



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/726,986      | 12/03/2003  | David I. Suda        | D0932-00383         | 5088             |

8933 7590 05/15/2007  
DUANE MORRIS, LLP  
IP DEPARTMENT  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103-4196

|          |
|----------|
| EXAMINER |
|----------|

GRAVINI, STEPHEN MICHAEL

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3749

|           |               |
|-----------|---------------|
| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

05/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Sp

**Advisory Action**  
**After the Filing of an Appeal Brief**

Application No.

10/726,986

Examiner

Stephen Gravini

Applicant(s)

SUDA ET AL.

Art Unit

3749

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 27 March 2007 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.  
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: The request to reopen prosecution under rule 41.39 is believed improper because in order for a request to comply with that rule, any amendments must be relevant to the new grounds of rejection. A request that complies with rule 41.39(b)(1) will be entered and the application will be reconsidered by the examiner under the provisions of rule 1.112. In this application, applicant's request to reopen prosecution is not limited to the new grounds of rejection. Applicant identifies a new ground of rejection with respect to claim 33 and 35. Any amendments must be relevant to claims 33 and 35. Applicant has amended claims 1, 3, 8, 10-13, 16, 22-25, and 30-35, and added new claims 36-37. These amended claims and newly added claims are not relevant to the new grounds of rejection such that the request is believed improper. In order to comply with current Office rules and practice, applicant is advised to request to reopen prosecution relevant to the new grounds of rejection.

*Stephen Gravini*